

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE REPUBLIC OF KAZAKHSTAN,

Plaintiff,

v.

DOES 1-100 INCLUSIVE,

Defendants.

CIVIL ACTION
Case No. 1:15-cv-01900-ER

**DECLARATION OF DAVID GREENE IN SUPPORT OF NONPARTIES
RESPUBLIKA AND LLC MEDIA-CONSULT'S MOTION FOR CLARIFICATION
OF PRELIMINARY INJUNCTION ORDER**

I, David Greene, declare and state as follows:

1. I am a Senior Staff Attorney and the Civil Liberties Director at the Electronic Frontier Foundation (“EFF”) and counsel for Respublika and LLC Media-Consult (collectively “Respublika”) for purposes of Respublika’s pending Motion for Clarification of Preliminary Injunction Order in the above-captioned matter. Except as otherwise indicated, I have personal knowledge of the facts set forth herein, and if called as a witness, I could and would competently testify thereto.

2. Attached hereto as Exhibit 1 is a true and correct copy of the 2002 Department of State Bureau of Democracy, Human Rights, and Labor (“State Department”) Country Report on Human Rights Practices for Kazakhstan, 2002 (released March 31, 2003) (also available at <http://www.state.gov/j/drl/rls/hrrpt/2002/18373.htm>) (last visited July 29, 2015).

3. Attached hereto as Exhibit 2 is a true and correct copy of the 2003 State Department Country Report on Human Rights Practices for Kazakhstan (released Feb. 25, 2004)

(also available at <http://www.state.gov/j/drl/rls/hrrpt/2003/27845.htm>) (last visited July 29, 2015).

4. Attached hereto as **Exhibit 3** is a true and correct copy of the 2004 State Department Country Report on Human Rights Practices for Kazakhstan (released Feb. 28, 2005) (also available at <http://www.state.gov/j/drl/rls/hrrpt/2004/41689.htm>) (last visited July 29, 2015).

5. Attached hereto as **Exhibit 4** is a true and correct copy of the 2005 State Department Country Report on Human Rights Practices for Kazakhstan (released Mar. 8, 2006) (also available at <http://www.state.gov/j/drl/rls/hrrpt/2005/61656.htm>) (last visited July 29, 2015).

6. Attached hereto as **Exhibit 5** is a true and correct copy of the 2006 State Department Country Report on Human Rights Practices for Kazakhstan (released Mar. 6, 2007) (also available at <http://www.state.gov/j/drl/rls/hrrpt/2006/78820.htm>) (last visited July 29, 2015).

7. Attached hereto as **Exhibit 6** is a true and correct copy of the 2007 State Department Country Report on Human Rights Practices for Kazakhstan (released Mar. 11, 2008) (also available at <http://www.state.gov/j/drl/rls/hrrpt/2007/100615.htm>) (last visited July 29, 2015).

8. Attached hereto as **Exhibit 7** is a true and correct copy of the 2008 State Department Country Report on Human Rights Practices for Kazakhstan (released Feb. 25, 2009) (also available at <http://www.state.gov/j/drl/rls/hrrpt/2008/sca/119135.htm>) (last visited July 29, 2015).

9. Attached hereto as **Exhibit 8** is a true and correct copy of the 2009 State Department Country Report on Human Rights Practices for Kazakhstan (released Mar. 11, 2010) (also available at <http://www.state.gov/j/drl/rls/hrrpt/2009/sca/136088.htm>) (last visited July 29, 2015).

10. Attached hereto as Exhibit 9 is a true and correct copy of the 2010 State Department Country Report on Human Rights Practices for Kazakhstan (released Apr. 8, 2010) (also available at <http://www.state.gov/j/drl/rls/hrrpt/2010/sca/154481.htm>) (last visited July 29, 2015).

11. Attached hereto as Exhibit 10 is a true and correct copy of the 2011 State Department Country Report on Human Rights Practices for Kazakhstan (released May 24, 2012) (also available at <http://www.state.gov/j/drl/rls/hrrpt/2011/sca/186466.htm>) (last visited July 29, 2015).

12. Attached hereto as Exhibit 11 is a true and correct copy of the 2012 State Department Country Report on Human Rights Practices for Kazakhstan (released Apr. 19, 2013) (also available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&did=204402>) (last visited July 29, 2015).

13. Attached hereto as Exhibit 12 is a true and correct copy of the 2013 State Department Country Report on Human Rights Practices for Kazakhstan (released Feb. 27, 2014) (also available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&did=220395>) (last visited July 29, 2015).

14. Attached hereto as Exhibit 13 is a true and correct copy of the 2014 State Department Country Report on Human Rights Practices for Kazakhstan (released Jun. 25, 2015) (also available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&did=236640>) (last visited July 29, 2015).

15. Attached hereto as Exhibit 14 is a true and correct copy of the European Parliament's 13 February 2003 Resolution on the Human Rights in Kazakhstan and Central Asia (also available at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P5-TA-2003-0064+0+DOC+XML+V0//EN&language=CS>) (last visited July 30, 2015).

16. Attached hereto as Exhibit 15 is a true and correct copy of the European Parliament's Resolution of 15 March 2012 on Kazakhstan (also available at

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2012-0089+0+DOC+XML+V0//EN> (last visited July 30, 2015).

17. Attached hereto as **Exhibit 16** is a true and correct copy of the European Parliament's 17 April 2013 Resolution on the Human Rights Situation in Kazakhstan (also available at <http://www.europarl.europa.eu/sides/getDoc.do?type=MOTION&reference=P7-RC-2013-0167&language=EN>) (last visited July 30, 2015).

18. Attached hereto as **Exhibit 17** is a true and correct copy of the European Parliament's February 2015 report entitled "Kazakhstan: human rights situation" (also available at [http://www.europarl.europa.eu/RegData/etudes/ATAG/2015/548998/EPRS_ATA\(2015\)548998_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/ATAG/2015/548998/EPRS_ATA(2015)548998_EN.pdf)) (last visited August 2, 2015).

19. Attached hereto as **Exhibit 18** is a true and correct copy of the February 9, 2012 European Union's "EU statement on opposition activities in Kazakhstan," issued at a Organization for Security and Co-operation in Europe ("OSCE") council meeting in Vienna (also available at http://eeas.europa.eu/delegations/vienna/documents/eu_osce/permanent_council/2012/20120209_901_activities_in_kazakhstan_en.pdf) (last visited August 2, 2015).

20. Attached hereto as **Exhibit 19** is a true and correct copy of a September 22, 2009 Organization for Security and Co-operation in Europe ("OSCE") press release entitled "OSCE media freedom representative protests over authorities' actions against one of Kazakhstan's few independent newspapers" (also available at <http://www.osce.org/fom/51341>) (last visited July 31, 2015).

21. Attached hereto as **Exhibit 20** is a true and correct copy of a February 8, 2010 OSCE press release entitled "OSCE media freedom representative criticizes 'misuse' of libel laws to muzzle the press in Kazakhstan, Tajikistan, and Hungary" (also available at <http://www.osce.org/fom/51885>) (last visited July 31, 2015).

22. Attached hereto as **Exhibit 21** is a true and correct copy of a November 30, 2012 OSCE press release entitled "OSCE representative concerned over threat to media pluralism in Kazakhstan" (also available at <http://www.osce.org/fom/97680>) (last visited July 31, 2015).

23. Attached hereto as **Exhibit 22** is a true and correct copy of a March 9, 2010 alert Committee to Protect Journalists (“CPJ”) alert entitled “Embattled Kazakh weekly paralyzed by damages” (also available at <https://cpj.org/2010/03/embattled-kazakh-weekly-paralyzed-by-damages.php>) (last viewed July 31, 2015).

24. Attached hereto as **Exhibit 23** is a true and correct copy of an April 29, 2010 CPJ alerted entitled “State-owned Internet provider blocks Kazakh news sites” (also available at <https://cpj.org/2010/04/state-owned-internet-provider-blocks-kazakh-news-s.php>) (last visited July 30, 2015)

25. Attached hereto as **Exhibit 24** is a true and correct copy of a September 13, 2010 CPJ report entitled “Disdaining press freedom, Kazakhstan undermines OSCE” (also available at <https://cpj.org/reports/2010/09/disdaining-press-freedom-kazakhstan-undermines-osc.php>) (last visited July 30, 2015).

26. Attached hereto as **Exhibit 25** is a true and correct copy of an April 1, 2011 CPJ report entitled “After attack, Kazakhstan publisher goes missing” (also available at <https://cpj.org/2011/04/after-attack-kazakhstan-publisher-goes-missing.php>) (last visited July 31, 2015).

27. Attached hereto as **Exhibit 26** is a true and correct copy of a February 6, 2013 CPJ alert entitled “Embattled Respublika journalists targeted in Kazakhstan” (also available at <https://cpj.org/2013/02/embattled-respublika-journalists-targeted-in-kazak.php>) (last visited July 31, 2015).

28. Attached hereto as **Exhibit 27** is a true and correct copy of an April 3, 2014 CPJ alert entitled “Kazakh authorities shut down another newspaper” (also available at <https://cpj.org/2014/04/kazakh-authorities-shut-down-another-newspaper.php>) (last visited July 31, 2015).

29. Attached hereto as **Exhibit 28** is a true and correct copy of a February 25, 2014 CPJ alert entitled “Kazakh court shuts down another critical newspaper” (also available

<https://cpj.org/2014/02/kazakh-court-shuts-down-another-critical-newspaper.php>) (last viewed July 31, 2015).

30. Attached hereto as **Exhibit 29** is a true and correct copy of a CPJ International Press Freedom Awards profile entitled “2002 Awardee: Irina Petrushova” (available at <https://cpj.org/awards/2002/petrushova.php>) (last visited July 21, 2015).

31. Attached hereto as **Exhibit 30** is a true and correct copy of the Human Rights Watch (“HRW”) “World Report 2015: Kazakhstan” (also available at <https://www.hrw.org/world-report/2015/country-chapters/kazakhstan>) (last visited July 30, 2015).

32. Attached hereto as **Exhibit 31** is a true and correct copy of a December 14, 2012 HRW article entitled “Kazakhstan: Growing Crackdown on Free Speech; A Year After Clash at Labor Strike Site, Those Who Reported on Violence Under Threat” (also available at <http://www.hrw.org/news/2012/12/13/kazakhstan-growing-crackdown-free-speech>) (last visit July 31, 2015)

33. Attached hereto as **Exhibit 32** is a true and correct copy of an April 22, 2014 HRW article entitled “Kazakhstan: Newspaper Closing a Blow to Free Speech; Crackdown on Free Expression, Media Intensifies” (also available at <http://www.hrw.org/news/2014/04/22/kazakhstan-newspaper-closing-blow-free-speech>) (last visited July 31, 2015).

34. Attached hereto as **Exhibit 33** is a true and correct copy of a January 21, 2011 Reporters Without Borders article entitled “Copies of Opposition Weekly Seized, Journalists Arrested” (also available at <http://en.rsf.org/kazakhstan-copies-of-opposition-weekly-seized-21-01-2011,39374.html>) (last visited July 31, 2015).

35. Attached hereto as **Exhibit 34** is a true and correct copy of a November 21, 2012 Reporters Without Borders article entitled “Main Independent National Media Threatened With Closure” (also available at <http://en.rsf.org/kazakhstan-main-independent-national-media-21-11-2012,43703.html>) (last visited July 31, 2015).

36. Attached hereto as **Exhibit 35** is a true and correct copy of a December 28, 2012 Reporters Without Borders article entitled “Main Opposition Media Silenced in Space of a Month” (also available at <http://en.rsf.org/kazakhstan-main-opposition-media-silenced-in-28-12-2012,43751.html>) (last visited July 31, 2015).

37. Attached hereto as **Exhibit 36** is a true and correct copy of an April 3, 2014 Reporters Without Borders article entitled “Increasingly Suffocating Climate for Media Freedom” (also available at <http://en.rsf.org/kazakhstan-increasingly-suffocating-climate-03-04-2014,46085.html>) (last visited July 31, 2015).

38. Attached hereto as **Exhibit 37** is a true and correct copy of a March 23, 2010 World Association of Newspapers and News Publishers (“WAN-IFRA”) press release entitled “WAN-IFRA Condemns Press Crackdown in Kazakhstan” (also available at <http://www.wan-ifra.org/press-releases/2010/03/23/wan-ifra-condemns-press-crackdown-in-kazakhstan>) (last visited August 2, 2015).

39. Attached hereto as **Exhibit 38** is a true and correct copy of a November 9, 2007 *EurasiaNet* article by Joanna Lillis entitled “Kazakhstan: More Media Silenced As High-Stakes Feud Continues” (also available at <http://www.eurasianet.org/departments/insight/articles/pp111007.shtml>) (last visited July 31, 2015).

40. Attached hereto as **Exhibit 39** is a true and correct copy of a February 10, 2010 *EurasiaNet* article by Joanna Lillis entitled “Kazakhstan: Are OSCE Duties Exerting Positive Influence on Astana?” (also available at <http://www.eurasianet.org/departments/insightb/articles/eav021110a.shtml>) (last visited July 31, 2015).

41. Attached hereto as **Exhibit 40** is a true and correct copy of a March 9, 2011 *EurasiaNet* article by Joanna Lillis entitled “Kazakhstan: The News Weekly That Won’t Be Silenced” (also available at <http://www.eurasianet.org/node/63176>) (last visited July 31, 2015).

42. Attached hereto as **Exhibit 41** is a true and correct copy of a February 9, 2013 *EurasiaNet* article by Joanna Lillis entitled “Kazakhstan: Critical Newspaper Loses Appeal on

Government Ban” (also available at <http://www.eurasianet.org/node/66534>) (last visited July 31, 2015).

43. Attached hereto as **Exhibit 42** is a true and correct copy of an April 2, 2014 *EurasiaNet* article by Joanna Lillis entitled “Kazakhstan: Critical Newspaper Raided and Banned” (also available at <http://www.eurasianet.org/node/68221>) (last visited August 2, 2015).

44. Attached hereto as **Exhibit 43** is a true and correct copy of a July 1, 2015 *EurasiaNet* article by Joanna Lillis entitled “Kazakhstan: Libel Trial Rekindles Fears of Media Muzzling” (also available at <http://www.eurasianet.org/node/74086>) (last visited August 2, 2015).

45. Attached hereto as **Exhibit 44** is a true and correct copy of a July 13, 2002 *New York Times* article by Michael Wines entitled “THE SATURDAY PROFILE; Bruised, but Still Jabbing Kazakh Heavyweights” (also available at <http://www.nytimes.com/2002/07/13/world/the-saturday-profile-bruised-but-still-jabbing-kazakh-heavyweights.html?pagewanted=all&src=pm>) (last visited July 29, 2015).

46. Attached hereto as **Exhibit 45** is a true and correct copy of a December 29, 2009 *Guardian* article by Luke Harding entitled “Kazakhstan cracks down on press freedom on eve of leading OSCE” (also available at <http://www.theguardian.com/world/2009/dec/29/kazakhstan-press-freedom-osce>) (last visited July 29, 2015).

47. Attached hereto as **Exhibit 46** is a true and correct copy of a November 22, 2012 *Guardian* article by Roy Greenslade entitled “Kazakh authorities seek closure of independent media” (also available at <http://www.theguardian.com/media/greenslade/2012/nov/22/press-freedom-kazakhstan>) (last visited July 29, 2015).

48. Attached hereto as **Exhibit 47** is a true and correct copy of an April 22, 2014 *Guardian* article by Roy Greenslade entitled “Kazakh court orders newspaper closure” (also available at <http://www.theguardian.com/media/greenslade/2014/apr/22/press-freedom-kazakhstan>) (last visited July 29, 2015).

49. Attached hereto as **Exhibit 48** is a true and correct copy of a March 10, 2013 BBC News article by Rayhan Demytrie entitled “Kazakhstan’s independent media under fire” (also available at <http://www.bbc.com/news/world-asia-21612748>) (last visited August 2, 2015).

50. Attached hereto as **Exhibit 49** is a true and correct copy of a February 26, 2015 Mediapart.fr article by Agathe Duparc entitled “Bernard Squarcini, at Kazakhstan’s service against regime opponent Ablyazov.”

51. Attached hereto as **Exhibit 50** is a true and correct copy of a June 17, 2015 *Le Temps* article by Sylvain Besson entitled “Le Kazakhstan enrôle un expert genevois dans sa campagne d’influence occulte” [Translation by Google Translate: Kazakhstan joined a Geneva expert in its occult influence campaign] (also available at http://www.letemps.ch/Page/Uuid/eff006b2-1439-11e5-96f4-d5eb39d18cde/Le_Kazakhstan_enr%C3%A9le_un_expert_genevois_dans_sa_campagne_dinfluence_occulte) (last viewed July 31, 2015).

52. Attached hereto as **Exhibit 51** is a true and correct copy of a letter dated April 30, 2015, sent from Kazakhstan, via its attorneys at the law firm of Curtis, Mallet-Prevost, Colt & Mosle LLP, to Black Lotus, Respublika’s web host, asserting that Black Lotus was hosting “Stolen Materials” in derogation of this Court’s Preliminary Injunction Order. The April 30, 2015 letter references a prior April 23, 2015 letter and a prior April 28, 2015 email sent from Kazakhstan, via its attorneys, to Black Lotus.

53. Attached hereto as **Exhibit 52** is a true and correct copy of a letter dated May 13, 2015, sent from Kazakhstan, via its attorneys, to Black Lotus, requesting that eleven (11) specific Respublika articles be removed from the Web “pursuant to the Court Order” as allegedly containing “Stolen Materials.” The May 13, 2015 letter references a prior May 12, 2015 letter.

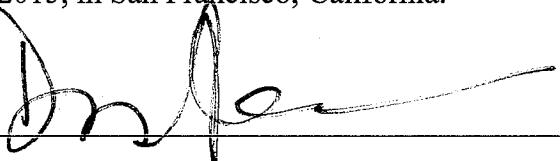
54. Attached hereto as **Exhibit 53** is a true and correct copy of a letter dated May 28, 2015, sent from Kazakhstan, via its attorneys, to Black Lotus, requesting that an additional nine (9) Respublika articles be removed from the Web “pursuant to the Court Order” as allegedly containing “Stolen Materials.”

55. Attached hereto as **Exhibit 54** is a true and correct copy of a letter dated June 12, 2015, sent from Kazakhstan, via its attorneys, to Black Lotus, demanding that Black Lotus “disable the Respublika website, to ensure compliance.” The article also identified an additional twelve (12) articles as allegedly containing “Stolen Materials.”

56. I am informed and believe that as a result of Kazakhstan’s communications with Black Lotus, a total of 47 separate articles were removed from Respublika’s website.

57. I am informed and believe that while many of the articles Kazakhstan demanded Black Lotus remove reported on documents or emails that had been posted on <http://kazaword.wordpress.com>, at least four (4) articles were based on information obtained from other sources.

I declare under penalty of perjury, under the laws of the United States, that the foregoing is true and correct. Dated this 3rd day of August, 2015, in San Francisco, California.



David Greene